



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB2358

Introduced 2/14/2008, by Sen. William R. Haine

SYNOPSIS AS INTRODUCED:

New Act

5 ILCS 140/7

from Ch. 116, par. 207

815 ILCS 505/2Z

from Ch. 121 1/2, par. 262Z

215 ILCS 158/Act rep.

Creates the Life Settlements Act. Provides for the regulation of providers and brokers who enter into life settlement contracts with insureds. Provides license requirements and establishes grounds for the suspension, denial, nonrenewal, or revocation of a license. Sets forth certain requirements and guidelines for life settlement contracts. Requires that providers submit an annual statement to the Director of Insurance. Requires certain documents to be produced by licensees for examination by the Director and sets guidelines for examination by the Director. Provides standards for the advertisement of life settlement contracts by licensees. Requires certain disclosures to be made in connection with life settlement contracts. Sets forth prohibited practices and exceptions. Grants the Director the authority to adopt rules. Sets forth violations and penalties for violations. Amends the Freedom of Information Act to exempt from disclosure certain documents required under the Life Settlements Act. Provides that violations of the Act constitute unfair trade practices subject to penalty under the Consumer Fraud and Deceptive Business Practices Act and amends the Consumer Fraud and Deceptive Business Practices Act to include the violations. Repeals the Viatical Settlements Act. Effective immediately.

LRB095 19778 KBJ 46156 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Life
5 Settlements Act.

6 Section 5. Definitions. In this Act:

7 "Advertisement" means any written, electronic, or printed
8 communication or any communication by means of recorded
9 telephone messages or transmitted on radio, television, the
10 Internet, or similar communications media, including film
11 strips, motion pictures, and videos, published, disseminated,
12 circulated, or placed before the public, directly or
13 indirectly, for the purpose of creating an interest in or
14 inducing a person to purchase or sell, assign, devise, bequest,
15 or transfer the death benefit or ownership of a life insurance
16 policy or an interest in a life insurance policy pursuant to a
17 life settlement contract.

18 "Broker" means a person who, on behalf of an owner and for
19 a fee, commission, or other valuable consideration, offers, or
20 attempts to negotiate life settlement contracts between an
21 owner and providers. A "broker" represents only the owner and
22 owes a fiduciary duty to the owner to act according to the
23 owner's instructions, and in the best interest of the owner,

1 notwithstanding the manner in which the broker is compensated.
2 "Broker" does not include an attorney, certified public
3 accountant, or financial planner retained in the type of
4 practice customarily performed in their professional capacity
5 to represent the owner whose compensation is not paid directly
6 or indirectly by the provider or any other person, except the
7 owner.

8 "Business of life settlements" means an activity involved
9 in, but not limited to, offering to enter into, soliciting,
10 negotiating, procuring, effectuating, monitoring, or tracking,
11 of life settlement contracts.

12 "Chronically ill" means: (i) being unable to perform at
13 least 2 activities of daily living, such as eating, toileting,
14 transferring, bathing, dressing, or continence; (ii) requiring
15 substantial supervision to protect the individual from threats
16 to health and safety due to severe cognitive impairment; or
17 (iii) having a level of disability similar to that described in
18 this definition as determined by the United States Secretary of
19 Health and Human Services.

20 "Director" means the Director of the Division of Insurance
21 of the Department of Financial and Professional Regulation.

22 "Division" means the Division of Insurance of the
23 Department of Financial and Professional Regulation.

24 "Financing entity" means an underwriter, placement agent,
25 lender, purchaser of securities, purchaser of a policy or
26 certificate from a provider, credit enhancer, or any entity

1 that has a direct ownership in a policy or certificate that is
2 the subject of a life settlement contract, but: (i) whose
3 principal activity related to the transaction is providing
4 funds to effect the life settlement contract or purchase of one
5 or more policies; and (ii) who has an agreement in writing with
6 one or more providers to finance the acquisition of life
7 settlement contracts. "Financing entity" does not include a
8 non-accredited investor or purchaser.

9 "Financing transaction" means a transaction in which a
10 licensed provider obtains financing from a financing entity
11 including, without limitation, any secured or unsecured
12 financing, any securitization transaction, or any securities
13 offering that either is registered or exempt from registration
14 under federal and State securities law.

15 "Fraudulent life settlement act" includes:

16 (a) acts or omissions committed by any person who,
17 knowingly and with intent to defraud, for the purpose of
18 depriving another of property or for pecuniary gain,
19 commits or permits its employees or its agents to engage in
20 acts including, but not limited to:

21 (1) presenting, causing to be presented, or
22 preparing with knowledge and belief that it will be
23 presented to or by a provider, premium finance lender,
24 broker, insurer, insurance producer, or any other
25 person, false material information, or concealing
26 material information, as part of, in support of, or

1 concerning a fact material to one or more of the
2 following:

3 (A) an application for the issuance of a life
4 settlement contract or insurance policy;

5 (B) the underwriting of a life settlement
6 contract or insurance policy;

7 (C) a claim for payment or benefit pursuant to
8 a life settlement contract or insurance policy;

9 (D) premiums paid on an insurance policy;

10 (E) payments and changes in ownership or
11 beneficiary made in accordance with the terms of a
12 life settlement contract or insurance policy;

13 (F) the reinstatement or conversion of an
14 insurance policy;

15 (G) in the solicitation, offer to enter into,
16 or effectuation of a life settlement contract, or
17 insurance policy;

18 (H) the issuance of written evidence of life
19 settlement contracts or insurance;

20 (I) any application for or the existence of or
21 any payments related to a loan secured directly or
22 indirectly by any interest in a life insurance
23 policy; or

24 (G) enter into any practice or plan that
25 involves Stranger-Originated Life Insurance; or

26 (2) failing to disclose to the insurer where the

1 request for such disclosure has been asked for by the
2 insurer that the prospective insured has undergone a
3 life expectancy evaluation by any person or entity
4 other than the insurer or its authorized
5 representatives in connection with the issuance of the
6 policy;

7 (3) employing any device, scheme, or artifice to
8 defraud in the business of life settlements; and

9 (4) in the solicitation, application or issuance of a
10 life insurance policy, employing any device, scheme or
11 artifice in violation of State insurable interest
12 laws; or

13 (b) in the furtherance of a fraud or to prevent the
14 detection of a fraud any person commits or permits its
15 employees or its agents to:

16 (1) remove, conceal, alter, destroy, or sequester
17 from the Director the assets or records of a licensee
18 or other person engaged in the business of life
19 settlements;

20 (2) misrepresent or conceal the financial
21 condition of a licensee, financing entity, insurer, or
22 other person;

23 (3) transact the business of life settlements in
24 violation of laws requiring a license, certificate of
25 authority, or other legal authority for the
26 transaction of the business of life settlements;

1 (4) file with the Director or the chief insurance
2 regulatory official of another jurisdiction a document
3 containing false information or otherwise concealing
4 information about a material fact from the Director;

5 (5) engage in embezzlement, theft,
6 misappropriation, or conversion of monies, funds,
7 premiums, credits, or other property of a provider,
8 insurer, insured, owner, insurance, policy owner, or
9 any other person engaged in the business of life
10 settlements or insurance;

11 (6) knowingly and with intent to defraud, enter
12 into, broker, or otherwise deal in a life settlement
13 contract, the subject of which is a life insurance
14 policy that was obtained by presenting false
15 information concerning any fact material to the policy
16 or by concealing, for the purpose of misleading
17 another, information concerning any fact material to
18 the policy, where the owner or the owner's agent
19 intended to defraud the policy's issuer;

20 (7) attempt to commit, assist, aid, or abet in the
21 commission of, or conspiracy to commit the acts or
22 omissions specified in this subsection; or

23 (8) misrepresent the state of residence of an owner
24 to be a state or jurisdiction that does not have a law
25 substantially similar to this Act for the purpose of
26 evading or avoiding the provisions of this Act.

1 "Insured" means the person covered under the policy being
2 considered for sale in a life settlement contract.

3 "Life expectancy" means the arithmetic mean of the number
4 of months the insured under the life insurance policy to be
5 settled can be expected to live as determined by a life
6 expectancy company considering medical records and appropriate
7 experiential data.

8 "Life insurance producer" means any person licensed in this
9 State as a resident or nonresident insurance producer who has
10 received qualification or authority for life insurance
11 coverage or a life line of coverage pursuant to the Illinois
12 Insurance Code.

13 "Life settlement contract" means a written agreement
14 entered into between a provider and an owner, establishing the
15 terms under which compensation or any thing of value will be
16 paid, which compensation or thing of value is less than the
17 expected death benefit of the insurance policy or certificate,
18 in return for the owner's assignment, transfer, sale, devise,
19 or bequest of the death benefit or any portion of an insurance
20 policy or certificate of insurance for compensation, provided
21 that the minimum value for a life settlement contract shall be
22 greater than a cash surrender value or accelerated death
23 benefit available at the time of an application for a life
24 settlement contract. "Life settlement contract" also includes
25 the transfer for compensation or value of ownership or
26 beneficial interest in a trust or other entity that owns such

1 policy if the trust or other entity was formed or availed of
2 for the principal purpose of acquiring one or more life
3 insurance contracts, which life insurance contract insures the
4 life of a person residing in this State. "Life settlement
5 contract" also includes:

6 (a) a written agreement for a loan or other lending
7 transaction, secured primarily by an individual or group
8 life insurance policy; or

9 (b) a premium finance loan made for a policy on or
10 before the date of issuance of the policy where:

11 (1) the loan proceeds are not used solely to pay
12 premiums for the policy and any costs or expenses
13 incurred by the lender or the borrower in connection
14 with the financing;

15 (2) the owner receives on the date of the premium
16 finance loan a guarantee of the future life settlement
17 value of the policy; or

18 (3) the owner agrees on the date of the premium
19 finance loan to sell the policy or any portion of its
20 death benefit on any date following the issuance of the
21 policy.

22 "Life settlement contract" does not include:

23 (a) a policy loan by a life insurance company pursuant
24 to the terms of the life insurance policy or accelerated
25 death provisions contained in the life insurance policy,
26 whether issued with the original policy or as a rider;

1 (b) a premium finance loan or any loan made by a bank
2 or other licensed financial institution, provided that
3 neither default on such loan, nor the transfer of the
4 policy in connection with such default is pursuant to an
5 agreement or understanding with any other person for the
6 purpose of evading regulation under this Act;

7 (c) a collateral assignment of a life insurance policy
8 by an owner;

9 (d) a loan made by a lender, provided that such loan is
10 not a written agreement for a loan or other lending
11 transaction, secured primarily by an individual or group
12 life insurance policy, and is not otherwise within the
13 definition of life settlement contract;

14 (e) an agreement where all the parties (i) are closely
15 related to the insured by blood or law or (ii) have a
16 lawful substantial economic interest in the continued
17 life, health, and bodily safety of the person insured, or
18 are trusts established primarily for the benefit of such
19 parties;

20 (f) any designation, consent, or agreement by an
21 insured who is an employee of an employer in connection
22 with the purchase by the employer, or trust established by
23 the employer, of life insurance on the life of the
24 employee;

25 (g) a bona fide business succession planning
26 arrangement: (i) between one or more shareholders in a

1 corporation or between a corporation and one or more of its
2 shareholders or one or more trust established by its
3 shareholders; (ii) between one or more partners in a
4 partnership or between a partnership and one or more of its
5 partners or one or more trust established by its partners;
6 or (iii) between one or more members in a limited liability
7 company or between a limited liability company and one or
8 more of its members or one or more trust established by its
9 members;

10 (h) an agreement entered into by a service recipient or
11 a trust established by the service recipient, and a service
12 provider, or a trust established by the service provider,
13 who performs significant services for the service
14 recipient's trade or business; or

15 (i) any other contract, transaction, or arrangement
16 from the definition of life settlement contract that the
17 Director determines is not of the type intended to be
18 regulated by this Act.

19 "Net death benefit" means the amount of the life insurance
20 policy or certificate to be settled less any outstanding debts
21 or liens.

22 "Owner" means the owner of a life insurance policy or a
23 certificate holder under a group policy, with or without a
24 terminal illness, who enters or seeks to enter into a life
25 settlement contract. For the purposes of this Act, "owner"
26 shall not be limited to an owner of a life insurance policy or

1 a certificate holder under a group policy that insures the life
2 of an individual with a terminal or chronic illness or
3 condition except where specifically addressed. "Owner" does
4 not include:

5 (a) any provider or other licensee under this Act;

6 (b) a qualified institutional buyer as defined in Rule
7 144A of the federal Securities Act of 1933, as amended;

8 (c) a financing entity;

9 (d) a special purpose entity; or 5.a related provider
10 trust.

11 "Patient identifying information" means an insured's
12 address, telephone number, facsimile number, electronic mail
13 address, photograph or likeness, employer, employment status,
14 social security number, or any other information that is likely
15 to lead to the identification of the insured.

16 "Policy" means an individual or group policy, group
17 certificate, contract, or arrangement of life insurance owned
18 by a resident of this State, regardless of whether delivered or
19 issued for delivery in this State.

20 "Premium finance loan" is a loan made primarily for the
21 purposes of making premium payments on a life insurance policy,
22 which loan is secured by an interest in such life insurance
23 policy.

24 "Person" means any natural person or legal entity,
25 including but not limited to, a partnership, limited liability
26 company, association, trust, or corporation.

1 "Provider" means a person, other than an owner, who enters
2 into or effectuates a life settlement contract with an owner.

3 "Provider" does not include:

4 (1) any bank, savings bank, savings and loan
5 association, or credit union;

6 (2) a licensed lending institution or creditor or
7 secured party pursuant to a premium finance loan agreement
8 that takes an assignment of a life insurance policy or
9 certificate issued pursuant to a group life insurance
10 policy as collateral for a loan;

11 (3) the insurer of a life insurance policy or rider to
12 the extent of providing accelerated death benefits or
13 riders or cash surrender value;

14 (4) any natural person who enters into or effectuates
15 no more than one agreement in a calendar year for the
16 transfer of a life insurance policy or certificate issued
17 pursuant to a group life insurance policy, for compensation
18 or anything of value less than the expected death benefit
19 payable under the policy;

20 (5) a purchaser;

21 (6) any authorized or eligible insurer that provides
22 stop loss coverage to a provider; purchaser, financing
23 entity, special purpose entity, or related provider trust;

24 (7) a financing entity;

25 (8) a special purpose entity;

26 (9) a related provider trust;

1 (10) a broker; or

2 (11) an accredited investor or qualified institutional
3 buyer as defined in respectively in regulation D, rule 501
4 or Rule 144A of the federal Securities Act of 1933, as
5 amended, who purchases a life settlement policy from a
6 provider.

7 "Purchased policy" means a policy or group certificate that
8 has been acquired by a provider pursuant to a life settlement
9 contract.

10 "Purchaser" means a person who pays compensation or
11 anything of value as consideration for a beneficial interest in
12 a trust which is vested with, or for the assignment, transfer
13 or sale of, an ownership or other interest in a life insurance
14 policy or a certificate issued pursuant to a group life
15 insurance policy which has been the subject of a life
16 settlement contract.

17 "Related provider trust" means a titling trust or other
18 trust established by a licensed provider or a financing entity
19 for the sole purpose of holding the ownership or beneficial
20 interest in purchased policies in connection with a financing
21 transaction. A "related provider trust" must have a written
22 agreement with the licensed provider under which the licensed
23 provider is responsible for ensuring compliance with all
24 statutory and regulatory requirements and under which the trust
25 agrees to make all records and files relating to life
26 settlement transactions available to the Division as if those

1 records and files were maintained directly by the licensed
2 provider.

3 "Settled policy" means a life insurance policy or
4 certificate that has been acquired by a provider pursuant to a
5 life settlement contract.

6 "Special Purpose Entity" means a corporation, partnership,
7 trust, limited liability company, or other legal entity formed
8 solely to provide either directly or indirectly access to
9 institutional capital markets:

10 (a) for a financing entity or provider;

11 (b) in connection with a transaction in which the
12 securities in the special purpose entity are acquired by
13 the owner or by a "qualified institutional buyer" as
14 defined in Rule 144 of the federal Securities Act of 1933,
15 as amended; or

16 (c) the securities pay a fixed rate of return
17 commensurate with established asset-backed institutional
18 capital markets.

19 "Stranger-Originated Life Insurance" or "STOLI" is the is a
20 practice or plan to initiate a life insurance policy for the
21 benefit of a third party investor who, at the time of policy
22 origination, has no insurable interest in the insured. "STOLI"
23 practices include, but are not limited to, cases where life
24 insurance is purchased with resources or guarantees from or
25 through a person or entity that, at the time of policy
26 inception, could not lawfully initiate the policy himself or

1 itself, and where, at the time of inception, there is an
2 arrangement or agreement, whether verbal or written, to
3 directly or indirectly transfer the ownership of the policy or
4 the policy benefits to a third party. Trusts that are created
5 to give the appearance of insurable interest and are used to
6 initiate policies for investors, violate insurable interest
7 laws and the prohibition against wagering on life. "STOLI"
8 arrangements do not include:

9 (a) a policy loan by a life insurance company pursuant
10 to the terms of the life insurance policy or accelerated
11 death provisions contained in the life insurance policy,
12 whether issued with the original policy or as a rider;

13 (b) a premium finance loan or any loan made by a bank
14 or other licensed financial institution, provided that
15 neither default on such loan, nor the transfer of the
16 policy in connection with such default is pursuant to an
17 agreement or understanding with any other person for the
18 purpose of evading regulation under this Act;

19 (c) a collateral assignment of a life insurance policy
20 by an owner;

21 (d) a loan made by a lender, provided that such loan is
22 not a written agreement for a loan or other lending
23 transaction, secured primarily by an individual or group
24 life insurance policy, and is not otherwise within the
25 definition of life settlement contract;

26 (e) an agreement where all the parties (i) are closely

1 related to the insured by blood or law or (ii) have a
2 lawful substantial economic interest in the continued
3 life, health, and bodily safety of the person insured, or
4 are trusts established primarily for the benefit of such
5 parties;

6 (f) any designation, consent, or agreement by an
7 insured who is an employee of an employer in connection
8 with the purchase by the employer, or trust established by
9 the employer, of life insurance on the life of the
10 employee;

11 (g) a bona fide business succession planning
12 arrangement: (i) between one or more shareholders in a
13 corporation or between a corporation and one or more of its
14 shareholders or one or more trust established by its
15 shareholders; (ii) between one or more partners in a
16 partnership or between a partnership and one or more of its
17 partners or one or more trust established by its partners;
18 or (iii) between one or more members in a limited liability
19 company or between a limited liability company and one or
20 more of its members or one or more trust established by its
21 members;

22 (h) an agreement entered into by a service recipient or
23 a trust established by the service recipient, and a service
24 provider, or a trust established by the service provider,
25 who performs significant services for the service
26 recipient's trade or business; or

1 (i) any other contract, transaction, or arrangement
2 from the definition of life settlement contract that the
3 Director determines is not of the type intended to be
4 regulated by this Act.

5 "Terminally ill" means having an illness or sickness that
6 can reasonably be expected to result in death in 24 months or
7 less.

8 Section 10. Licensing requirements.

9 (a) No person, wherever located, shall act as a provider or
10 broker with an owner or multiple owners who is a resident of
11 this State, without first having obtained a license from the
12 Director. If there is more than one owner on a single policy
13 and the owners are residents of different states, the life
14 settlement contract shall be governed by the law of the state
15 where the owner having the largest percentage ownership resides
16 or, if the owners hold equal ownership, the state of residence
17 of one owner agreed upon in writing by all owners.

18 (b) Application for a provider or broker license shall be
19 made to the Director by the applicant on a form prescribed by
20 the Director, and the application shall be accompanied by a fee
21 in an amount established by the Director, provided that the
22 license and renewal fees for a provider license shall be
23 reasonable and that the license and renewal fees for a broker
24 license shall not exceed those established for an insurance
25 producer, as such fees are otherwise provided for in this Act.

1 (c) A life insurance producer who has been duly licensed as
2 a resident insurance producer with a life line of authority in
3 this State or his or her home state for at least one year and is
4 licensed as a nonresident producer in this State shall be
5 deemed to meet the licensing requirements of this Section and
6 shall be permitted to operate as a broker.

7 (d) Not later than 30 days from the first day of operating
8 as a broker, the life insurance producer shall notify the
9 Director that he or she is acting as a broker on a form
10 prescribed by the Director, and shall pay any applicable fee to
11 be determined by the Director. Notification shall include an
12 acknowledgement by the life insurance producer that he or she
13 will operate as a broker in accordance with this Act.

14 (e) The insurer that issued the policy that is the subject
15 of a life settlement contract shall not be responsible for any
16 act or omission of a broker, provider, or purchaser arising out
17 of or in connection with the life settlement transaction,
18 unless the insurer receives compensation for the placement of a
19 life settlement contract from the provider, purchaser, or
20 broker in connection with the life settlement contract.

21 (f) A person licensed as an attorney, certified public
22 accountant, or financial planner accredited by a nationally
23 recognized accreditation agency, who is retained to represent
24 the owner and whose compensation is not paid directly or
25 indirectly by the provider or purchaser may negotiate life
26 settlement contracts on behalf of the owner without having to

1 obtain a license as a broker.

2 (g) Licenses may be renewed every 2 years on the
3 anniversary date upon payment of the periodic renewal fee. As
4 specified by subsection (b) of this Section, the renewal fee
5 for a provider shall not exceed a reasonable fee. Failure to
6 pay the fee within the terms prescribed shall result in the
7 automatic revocation of the license requiring periodic
8 renewal.

9 (h) The term of a provider license shall be equal to that
10 of a domestic stock life insurance company and the term of a
11 broker license shall be equal to that of an insurance producer
12 license. Licenses requiring periodic renewal may be renewed on
13 their anniversary date upon payment of the periodic renewal fee
14 as specified in subsection (b) of this Section. Failure to pay
15 the fees on or before the renewal date shall result in
16 expiration of the license.

17 (i) The applicant shall provide such information as the
18 Director may require on forms prepared by the Director. The
19 Director shall have authority, at any time, to require such
20 applicant to fully disclose the identity of its stockholders
21 (except stockholders owning fewer than 10% of the shares of an
22 applicant whose shares are publicly traded), partners,
23 officers, and employees, and the Director may, in the exercise
24 of the Director's sole discretion, refuse to issue such a
25 license in the name of any person if not satisfied that any
26 officer, employee, stockholder, or partner thereof who may

1 materially influence the applicant's conduct meets the
2 standards of this Act.

3 (j) A license issued to a partnership, corporation, or
4 other entity authorizes all members, officers and designated
5 employees to act as a licensee under the license, if those
6 persons are named in the application and any supplements to the
7 application.

8 (k) Upon the filing of an application and the payment of
9 the license fee, the Director shall make an investigation of
10 each applicant and may issue a license if the Director finds
11 that the applicant:

12 (1) if a provider, has provided a detailed plan of
13 operation;

14 (2) is competent, trustworthy, and intends to transact
15 its business in good faith;

16 (3) has a good business reputation and has had
17 experience, training or education so as to be qualified in
18 the business for which the license is applied;

19 (4) if the applicant is a legal entity, is formed or
20 organized pursuant to the laws of this State or is a
21 foreign legal entity authorized to transact business in
22 this State, or provides a certificate of good standing from
23 the state of its domicile; and

24 (5) has provided to the Director an anti-fraud plan
25 that meets the requirements of Section 60 of this Act and
26 includes:

1 (A) a description of the procedures for detecting
2 and investigating possible fraudulent acts and
3 procedures for resolving material inconsistencies
4 between medical records and insurance applications;

5 (B) a description of the procedures for reporting
6 fraudulent insurance acts to the Director;

7 (C) a description of the plan for anti-fraud
8 education and training of its underwriters and other
9 personnel; and

10 (D) a written description or chart outlining the
11 arrangement of the anti-fraud personnel who are
12 responsible for the investigation and reporting of
13 possible fraudulent insurance acts and investigating
14 unresolved material inconsistencies between medical
15 records and insurance applications.

16 (l) The Director shall not issue any license to any
17 nonresident applicant, unless a written designation of an agent
18 for service of process is filed and maintained with the
19 Director or unless the applicant has filed with the Director
20 the applicant's written irrevocable consent that any action
21 against the applicant may be commenced against the applicant by
22 service of process on the Director.

23 (m) Each licensee shall file with the Director on or before
24 the first day of March of each year an annual statement
25 containing information as the Director by rule may prescribe.

26 (n) A provider may not use any person to perform the

1 functions of a broker as defined in this Act unless the person
2 holds a current, valid license as a broker, and as provided in
3 this Section.

4 (o) A broker may not use any person to perform the
5 functions of a provider as defined in this Act unless such
6 person holds a current, valid license as a provider, and as
7 provided in this Section.

8 (p) A provider, or broker shall provide to the Director new
9 or revised information about officers, 10% or more
10 stockholders, partners, directors, members, or designated
11 employees within 30 days of the change.

12 (q) An individual licensed as a broker shall complete on a
13 biennial basis 15 hours of training related to life settlements
14 and life settlement transactions, as required by the Director;
15 provided, however, that a life insurance producer who is
16 operating as a broker pursuant to this Section shall not be
17 subject to the requirements of this subsection (q). Any person
18 failing to meet the requirements of this subsection (q) shall
19 be subject to the penalties imposed by the Director.

20 Section 15. License suspension, revocation, or refusal to
21 renew.

22 (a) The Director may suspend, revoke, or refuse to renew
23 the license of any licensee if the Director finds that:

24 (1) there was any material misrepresentation in the
25 application for the license;

1 (2) the licensee or any officer, partner, member, or
2 director has been guilty of fraudulent or dishonest
3 practices, is subject to a final administrative action or
4 is otherwise shown to be untrustworthy or incompetent to
5 act as a licensee;

6 (3) the provider demonstrates a pattern of
7 unreasonably withholding payments to policy owners;

8 (4) the licensee no longer meets the requirements for
9 initial licensure;

10 (5) the licensee or any officer, partner, member or
11 director has been convicted of a felony, or of any
12 misdemeanor of which criminal fraud is an element; or the
13 licensee has pleaded guilty or nolo contendere with respect
14 to any felony or any misdemeanor of which criminal fraud or
15 moral turpitude is an element, regardless whether a
16 judgment of conviction has been entered by the court;

17 (6) the provider has entered into any life settlement
18 contract that has not been approved pursuant to the Act;

19 (7) the provider has failed to honor contractual
20 obligations set out in a life settlement contract;

21 (8) the provider has assigned, transferred, or pledged
22 a settled policy to a person other than a Provider licensed
23 in this State, a purchaser, an accredited investor, or
24 qualified institutional buyer as defined respectively in
25 Regulation D, Rule 501, or Rule 144A of the federal
26 Securities Act of 1933, as amended, financing entity,

1 special purpose entity, or related provider trust; or

2 (9) the licensee or any officer, partner, member or key
3 management personnel has violated any of the provisions of
4 this Act.

5 (b) Before the Director denies a license application or
6 suspends, revokes, or refuses to renew the license of any
7 licensee under this Act, the Director shall conduct a hearing
8 in accordance with the Illinois Administrative Procedure Act.

9 Section 20. Contract requirements.

10 (a) No person may use any form of life settlement contract
11 in this State unless it has been filed with and approved, if
12 required, by the Director in a manner that conforms with the
13 filing procedures and any time restrictions or deeming
14 provisions, if any, for life insurance forms, policies and
15 contracts.

16 (b) No insurer may, as a condition of responding to a
17 request for verification of coverage or in connection with the
18 transfer of a policy pursuant to a life settlement contract,
19 require that the owner, insured, provider, or broker sign any
20 form, disclosure, consent, waiver, or acknowledgment that has
21 not been expressly approved by the Director for use in
22 connection with life settlement contracts in this State.

23 (c) A person shall not use a life settlement contract form
24 or provide to an owner a disclosure statement form in this
25 State unless first filed with and approved by the Director. The

1 Director shall not approve a life settlement contract form or
2 disclosure statement form if, in the Director's opinion, the
3 contract or provisions contained therein fail to meet the
4 requirements of Sections 35, 40, 50, and subsection (b) of
5 Section 70 of this Act or are unreasonable, contrary to the
6 interests of the public, or otherwise misleading or unfair to
7 the owner. At the Director's discretion, the Director may
8 require the submission of advertising material.

9 Section 25. Reporting requirements and privacy.

10 (a) For any policy settled within 5 years of policy
11 issuance, each provider shall file with the Director on or
12 before March 1 of each year an annual statement containing such
13 information as the Director may prescribe by rule. In addition
14 to any other requirements, the annual statement shall specify
15 the total number, aggregate face amount, and life settlement
16 proceeds of policies settled during the immediately preceding
17 calendar year, together with a breakdown of the information by
18 policy issue year. The annual statement shall also include the
19 names of the insurance companies whose policies have been
20 settled and the names of the brokers that have settled the
21 policies.

22 (1) This information shall be limited to only those
23 transactions where the insured is a resident of this State
24 and shall not include individual transaction data
25 regarding the business of life settlements or information

1 that there is a reasonable basis to believe could be used
2 to identify the owner or the insured.

3 (2) Every provider that willfully fails to file an
4 annual statement as required in this Section, or willfully
5 fails to reply within 30 days to a written inquiry by the
6 Director, shall, in addition to other penalties provided by
7 this Act, be subject, upon due notice and opportunity to be
8 heard, to a penalty of up to \$250 per day of delay, not to
9 exceed \$25,000 in the aggregate, for each such failure.

10 (b) Except as otherwise allowed or required by law, a
11 provider, broker, insurance company, insurance producer,
12 information bureau, rating agency, or company, or any other
13 person with actual knowledge of an insured's identity, shall
14 not disclose the identity of an insured or information that
15 there is a reasonable basis to believe could be used to
16 identify the insured or the insured's financial or medical
17 information to any other person unless the disclosure:

18 (1) is necessary to effect a life settlement contract
19 between the owner and a provider and the owner and insured
20 have provided prior written consent to the disclosure;

21 (2) is necessary to effectuate the sale of life
22 settlement contracts, or interests therein, as
23 investments, provided the sale is conducted in accordance
24 with applicable State and federal securities law and
25 provided further that the owner and the insured have both
26 provided prior written consent to the disclosure;

1 (3) is provided in response to an investigation or
2 examination by the Director or any other governmental
3 officer or agency or pursuant to the requirements of
4 Section 60;

5 (4) is a term or condition to the transfer of a policy
6 by one provider to another provider, in which case the
7 receiving provider shall be required to comply with the
8 confidentiality requirements of subsection (b) of Section
9 25;

10 (5) is necessary to allow the provider or broker or
11 their authorized representatives to make contacts for the
12 purpose of determining health status. For the purposes of
13 this Section, the term "authorized representative" shall
14 not include any person who has or may have any financial
15 interest in the settlement contract other than a provider,
16 licensed broker, financing entity, related provider trust
17 or special purpose entity; further, a provider, or broker
18 shall require its authorized representative to agree in
19 writing to adhere to the privacy provisions of this Act; or

20 (6) is required to purchase stop loss coverage.

21 (c) Non-public personal information solicited or obtained
22 in connection with a proposed or actual life settlement
23 contract shall be subject to the provisions applicable to
24 financial institutions under the federal Gramm Leach Bliley Act
25 and all other State and federal laws relating to
26 confidentiality of non-public personal information.

1 Section 30. Examination.

2 (a) The Director may, when the Director deems it reasonably
3 necessary to protect the interests of the public, examine the
4 business and affairs of any licensee or applicant for a
5 license. The Director may order any licensee or applicant to
6 produce any records, books, files, or other information
7 reasonably necessary to ascertain whether a licensee or
8 applicant is acting or has acted in violation of the law or
9 otherwise contrary to the interests of the public. The expenses
10 incurred in conducting any examination shall be paid by the
11 licensee or applicant.

12 (b) In lieu of an examination under this Act of any foreign
13 or alien licensee licensed in this State, the Director may, at
14 the Director's discretion, accept an examination report on the
15 licensee as prepared by the Director for the licensee's state
16 of domicile or port-of-entry state.

17 (c) Names of and individual identification data, or for all
18 owners and insureds shall be considered private and
19 confidential information and shall not be disclosed by the
20 Director unless required by law.

21 (d) Records of all consummated transactions and life
22 settlement contracts shall be maintained by the provider for 3
23 years after the death of the insured and shall be available to
24 the Director for inspection during reasonable business hours.

25 (e) Upon determining that an examination should be

1 conducted, the Director shall issue an examination warrant
2 appointing one or more examiners to perform the examination and
3 instructing them as to the scope of the examination. In
4 conducting the examination, the examiner shall use methods
5 common to the examination of any life settlement licensee and
6 should use those guidelines and procedures set forth in an
7 examiners' handbook adopted by a national organization.

8 Every licensee or person from whom information is sought,
9 its officers, directors, and agents shall provide to the
10 examiners timely, convenient, and free access at all reasonable
11 hours at its offices to all books, records, accounts, papers,
12 documents, assets, and computer or other recordings relating to
13 the property, assets, business, and affairs of the licensee
14 being examined. The officers, directors, employees, and agents
15 of the licensee or person shall facilitate the examination and
16 aid in the examination so far as it is in their power to do so.
17 The refusal of a licensee, by its officers, directors,
18 employees, or agents to submit to examination or to comply with
19 any reasonable written request of the Director shall be grounds
20 for suspension or refusal of, or nonrenewal of any license or
21 authority held by the licensee to engage in the life settlement
22 business or other business subject to the Director's
23 jurisdiction. Any proceedings for suspension, revocation, or
24 refusal of any license or authority shall be conducted.

25 The Director shall have the power to issue subpoenas, to
26 administer oaths, and to examine under oath any person as to

1 any matter pertinent to the examination. Upon the failure or
2 refusal of a person to obey a subpoena, the Director may
3 petition a court of competent jurisdiction, and upon proper
4 showing, the Court may enter an order compelling the witness to
5 appear and testify or produce documentary evidence.

6 When making an examination under this Act, the Director may
7 retain attorneys, appraisers, independent actuaries,
8 independent certified public accountants, or other
9 professionals and specialists as examiners, the reasonable
10 cost of which shall be borne by the licensee that is the
11 subject of the examination. Nothing contained in this Act shall
12 be construed to limit the Director's authority to terminate or
13 suspend an examination in order to pursue other legal or
14 regulatory action pursuant to the insurance laws of this State.
15 Findings of fact and conclusions made pursuant to any
16 examination shall be prima facie evidence in any legal or
17 regulatory action.

18 Nothing contained in this Act shall be construed to limit
19 the Director's authority to use and, if appropriate, to make
20 public any final or preliminary examination report, any
21 examiner or licensee work papers or other documents, or any
22 other information discovered or developed during the course of
23 any examination in the furtherance of any legal or regulatory
24 action that the Director may, in his or her sole discretion,
25 deem appropriate.

26 (f) Examination reports shall be comprised of only facts

1 appearing upon the books, from the testimony of its officers or
2 agents or other persons examined concerning its affairs, and
3 such conclusions and recommendations as the examiners find
4 reasonably warranted from the facts. No later than 60 days
5 following completion of the examination, the examiner in charge
6 shall file with the Director a verified written report of
7 examination under oath. Upon receipt of the verified report,
8 the Director shall transmit the report to the licensee
9 examined, together with a notice that shall afford the licensee
10 examined a reasonable opportunity of not more than 30 days to
11 make a written submission or rebuttal with respect to any
12 matters contained in the examination report and which shall
13 become part of the report or to request a hearing on any matter
14 in dispute. In the event the Director determines that
15 regulatory action is appropriate as a result of an examination,
16 the Director may initiate any proceedings or actions provided
17 by law.

18 (g) Names and individual identification data for all
19 owners, purchasers, and insureds shall be considered private
20 and confidential information and shall not be disclosed by the
21 Director, unless the disclosure is to another regulator or is
22 required by law. Except as otherwise provided in this Act, all
23 examination reports, working papers, recorded information,
24 documents, and copies thereof produced by, obtained by or
25 disclosed to the Director or any other person in the course of
26 an examination made under this Act, or in the course of

1 analysis or investigation by the Director of the financial
2 condition or market conduct of a licensee shall be confidential
3 by law and privileged, shall not be subject to the Freedom of
4 Information Act, shall not be subject to subpoena, and shall
5 not be subject to discovery or admissible in evidence in any
6 private civil action. The Director is authorized to use the
7 documents, materials, or other information in the furtherance
8 of any regulatory or legal action brought as part of the
9 Director's official duties. The licensee being examined may
10 have access to all documents used to make the report.

11 (h) An examiner may not be appointed by the Director if the
12 examiner, either directly or indirectly, has a conflict of
13 interest, or is affiliated with the management of or owns a
14 pecuniary interest in any person subject to examination under
15 this Act. This Section shall not be construed to automatically
16 preclude an examiner from being: (i) an owner; (ii) an insured
17 in a life settlement contract or insurance policy; or (iii) a
18 beneficiary in an insurance policy that is proposed for a life
19 settlement contract. Notwithstanding the requirements of this
20 clause, the Director may retain from time to time, on an
21 individual basis, qualified actuaries, certified public
22 accountants, or other similar individuals who are
23 independently practicing their professions, even though these
24 persons may from time to time be similarly employed or retained
25 by persons subject to examination under this Act.

26 (i) (1) No cause of action shall arise nor shall any

1 liability be imposed against the Director, the Director's
2 authorized representatives, or any examiner appointed by the
3 Director for any statements made or conduct performed in good
4 faith while carrying out the provisions of this Act.

5 (2) No cause of action shall arise, nor shall any liability
6 be imposed against any person for the act of communicating or
7 delivering information or data to the Director or the
8 Director's authorized representative or examiner pursuant to
9 an examination made under this Act, if the act of communication
10 or delivery was performed in good faith and without fraudulent
11 intent or the intent to deceive. This paragraph does not
12 abrogate or modify in any way any common law or statutory
13 privilege or immunity heretofore enjoyed by any person
14 identified in paragraph (1) of this subsection (i).

15 (3) A person identified in this subsection (i) shall be
16 entitled to an award of attorney's fees and costs if he or she
17 is the prevailing party in a civil cause of action for libel,
18 slander, or any other relevant tort arising out of activities
19 in carrying out the provisions of this Act and the party
20 bringing the action was not substantially justified in doing
21 so. For purposes of this Section a proceeding is "substantially
22 justified" if it had a reasonable basis in law or fact at the
23 time that it was initiated.

24 (j) The Director may investigate suspected fraudulent life
25 settlement acts and persons engaged in the business of life
26 settlements.

1 Section 35. Advertising.

2 (a) A broker or provider licensed pursuant to this Act may
3 conduct or participate in advertisements within this State.
4 Such advertisements shall comply with all advertising and
5 marketing laws or rules and regulations promulgated by the
6 Director that are applicable to life insurers or to brokers,
7 and providers licensed pursuant to this Act.

8 (b) Advertisements shall be accurate, truthful, and not
9 misleading in fact or by implication.

10 (c) No person or trust shall: (i) directly or indirectly,
11 market, advertise, solicit, or otherwise promote the purchase
12 of a policy for the sole purpose of or with an emphasis on
13 settling the policy; or (ii) use the words "free", "no cost",
14 or words of similar import in the marketing, advertising,
15 soliciting, or otherwise promoting of the purchase of a policy.

16 Section 40. Disclosures to owners.

17 (a) The provider shall provide in writing, in a separate
18 document that is signed by the owner and provider, the
19 following information to the owner no later than the date the
20 life settlement contract is signed by all parties:

21 (1) the fact that possible alternatives to life
22 settlement contracts exist, including, but not limited to,
23 accelerated benefits offered by the issuer of the life
24 insurance policy;

1 (2) the fact that some or all of the proceeds of a life
2 settlement contract may be taxable and that assistance
3 should be sought from a professional tax advisor;

4 (3) the fact that the proceeds from a life settlement
5 contract could be subject to the claims of creditors;

6 (4) the fact that receipt of proceeds from a life
7 settlement contract may adversely affect the recipients'
8 eligibility for public assistance or other government
9 benefits or entitlements and that advice should be obtained
10 from the appropriate agencies;

11 (5) the fact that the owner has a right to terminate a
12 life settlement contract within 15 days of the date it is
13 executed by all parties and the owner has received the
14 disclosures contained herein. Rescission, if exercised by
15 the owner, is effective only if both notice of the
16 rescission is given, and the owner repays all proceeds and
17 any premiums, loans, and loan interest paid on account of
18 the provider within the rescission period. If the insured
19 dies during the rescission period, the contract shall be
20 deemed to have been rescinded subject to repayment by the
21 owner or the owner's estate of all proceeds and any
22 premiums, loans, and loan interest to the provider;

23 (6) the fact that proceeds will be sent to the owner
24 within 3 business days after the provider has received the
25 insurer or group administrator's acknowledgement that
26 ownership of the policy or interest in the certificate has

1 been transferred and the beneficiary has been designated in
2 accordance with the terms of the life settlement contract;

3 (7) the fact that entering into a life settlement
4 contract may cause other rights or benefits, including
5 conversion rights and waiver of premium benefits that may
6 exist under the policy or certificate of a group policy to
7 be forfeited by the owner and that assistance should be
8 sought from a professional financial advisor;

9 (8) the amount and method of calculating the
10 compensation paid or to be paid to the broker, or any other
11 person acting for the owner in connection with the
12 transaction, wherein the term compensation includes
13 anything of value paid or given;

14 (9) the date by which the funds will be available to
15 the owner and the transmitter of the funds;

16 (10) the fact that the Director shall require delivery
17 of a Buyer's Guide or a similar consumer advisory package
18 in the form prescribed by the Director to owners during the
19 solicitation process;

20 (11) the disclosure document shall contain the
21 following language:

22 "All medical, financial or personal information solicited
23 or obtained by a provider or broker about an insured,
24 including the insured's identity or the identity of family
25 members, a spouse or a significant other may be disclosed
26 as necessary to effect the life settlement contract between

1 the owner and provider. If you are asked to provide this
2 information, you will be asked to consent to the
3 disclosure. The information may be provided to someone who
4 buys the policy or provides funds for the purchase. You may
5 be asked to renew your permission to share information
6 every 2 years.";

7 (12) the fact that the Director shall require providers
8 and brokers to print separate signed fraud warnings on
9 their applications and on their life settlement contracts
10 is as follows:

11 "Any person who knowingly presents false information in an
12 application for insurance or life settlement contract is
13 guilty of a crime and may be subject to fines and
14 confinement in prison.";

15 (13) the fact that the insured may be contacted by
16 either the provider or broker or its authorized
17 representative for the purpose of determining the
18 insured's health status or to verify the insured's address.
19 This contact is limited to once every 3 months if the
20 insured has a life expectancy of more than one year, and no
21 more than once per month if the insured has a life
22 expectancy of one year or less;

23 (14) the affiliation, if any, between the provider and
24 the issuer of the insurance policy to be settled;

25 (15) that a broker represents exclusively the owner,
26 and not the insurer or the provider or any other person,

1 and owes a fiduciary duty to the owner, including a duty to
2 act according to the owner's instructions and in the best
3 interest of the owner;

4 (16) the document shall include the name, address, and
5 telephone number of the provider;

6 (17) the name, business address, and telephone number
7 of the independent third party escrow agent, and the fact
8 that the owner may inspect or receive copies of the
9 relevant escrow or trust agreements or documents;

10 (18) the fact that a change of ownership could in the
11 future limit the insured's ability to purchase future
12 insurance on the insured's life because there is a limit to
13 how much coverage insurers will issue on one life.

14 (b) The written disclosures shall be conspicuously
15 displayed in any life settlement contract furnished to the
16 owner by a provider, including any affiliations or contractual
17 arrangements between the provider and the broker.

18 (c) A broker shall provide the owner and the provider with
19 at least the following disclosures no later than the date the
20 life settlement contract is signed by all parties. The
21 disclosures shall be conspicuously displayed in the life
22 settlement contract or in a separate document signed by the
23 owner and provide the following information:

24 (1) the name, business address, and telephone number of
25 the broker;

26 (2) a full, complete, and accurate description of all

1 the offers, counter-offers, acceptances, and rejections
2 relating to the proposed life settlement contract;

3 (3) a written disclosure of any affiliations or
4 contractual arrangements between the broker and any person
5 making an offer in connection with the proposed life
6 settlement contracts;

7 (4) the name of each broker who receives compensation
8 and the amount of compensation received by that broker,
9 which compensation includes anything of value paid or given
10 to the broker in connection with the life settlement
11 contract;

12 (5) a complete reconciliation of the gross offer or bid
13 by the provider to the net amount of proceeds or value to
14 be received by the owner. For the purpose of this Section,
15 gross offer or bid shall mean the total amount or value
16 offered by the provider for the purchase of one or more
17 life insurance policies, inclusive of commissions and
18 fees; and

19 (6) the failure to provide the disclosures or rights
20 described in this Section shall be deemed an unfair trade
21 practice pursuant to Section 80 of this Act.

22 Section 45. Disclosure to insurer. Without limiting the
23 ability of an insurer from assessing the insurability of a
24 policy applicant and determining whether or not to issue the
25 policy, and in addition to other questions an insurance carrier

1 may lawfully pose to a life insurance applicant, insurance
2 carriers may inquire in the application for insurance whether
3 the proposed owner intends to pay premiums with the assistance
4 of financing from a lender that will use the policy as
5 collateral to support the financing.

6 (1) If the loan provides funds that can be used for a
7 purpose other than paying for the premiums, costs, and
8 expenses associated with obtaining and maintaining the
9 life insurance policy and loan, the application shall be
10 rejected as a violation of the prohibited practices in
11 Section 60 of this Act.

12 (2) If the financing does not violate Section 60 in
13 this manner, the insurance carrier:

14 (A) may make disclosures, including but not
15 limited to such as the following, to the applicant and
16 the insured, either on the application or an amendment
17 to the application to be completed no later than the
18 delivery of the policy:

19 "If you have entered into a loan arrangement where the
20 policy is used as collateral, and the policy does
21 change ownership at some point in the future in
22 satisfaction of the loan, the following may be
23 true: (i) a change of ownership could lead to a
24 stranger owning an interest in the insured's life;
25 (ii)a change of ownership could in the future
26 limit your ability to purchase future insurance on

1 the insured's life because there is a limit to how
2 much coverage insurers will issue on one life;
3 (iii) should there be a change of ownership and you
4 wish to obtain more insurance coverage on the
5 insured's life in the future, the insured's higher
6 issue age, a change in health status, or other
7 factors may reduce the ability to obtain coverage
8 or may result in significantly higher premiums;
9 and (iv) you should consult a professional
10 advisor, since a change in ownership in
11 satisfaction of the loan may result in tax
12 consequences to the owner, depending on the
13 structure of the loan."; and

14 (B) may require certifications, such as the
15 following, from the applicant or the insured:

16 "(i) I have not entered into any agreement or
17 arrangement providing for the future sale of this
18 life insurance policy. (ii) My loan arrangement
19 for this policy provides funds sufficient to pay
20 for some or all of the premiums, costs, and
21 expenses associated with obtaining and maintaining
22 my life insurance policy, but I have not entered
23 into any agreement by which I am to receive
24 consideration in exchange for procuring this
25 policy. (iii) The borrower has an insurable
26 interest in the insured."

1 Section 50. General rules.

2 (a) A provider entering into a life settlement contract
3 with any owner of a policy, wherein the insured is terminally
4 or chronically ill, shall first obtain:

5 (1) if the owner is the insured, a written statement
6 from a licensed attending physician that the owner is of
7 sound mind and under no constraint or undue influence to
8 enter into a settlement contract; and

9 (2) a document in which the insured consents to the
10 release of his medical records to a provider, settlement
11 broker, or insurance producer and, if the policy was issued
12 less than 2 years from the date of application for a
13 settlement contract, to the insurance company that issued
14 the policy.

15 (b) The insurer shall respond to a request for verification
16 of coverage submitted by a provider, settlement broker, or life
17 insurance producer not later than 30 calendar days of the date
18 the request is received. The request for verification of
19 coverage must be made on a form approved by the Director. The
20 insurer shall complete and issue the verification of coverage
21 or indicate in which respects it is unable to respond. In its
22 response, the insurer shall indicate whether, based on the
23 medical evidence and documents provided, the insurer intends to
24 pursue an investigation at this time regarding the validity of
25 the insurance contract.

1 (c) Before or at the time of execution of the settlement
2 contract, the provider shall obtain a witnessed document in
3 which the owner consents to the settlement contract, represents
4 that the owner has a full and complete understanding of the
5 settlement contract, that the owner has a full and complete
6 understanding of the benefits of the policy, acknowledges that
7 the owner is entering into the settlement contract freely and
8 voluntarily, and, for persons with a terminal or chronic
9 illness or condition, acknowledges that the insured has a
10 terminal or chronic illness and that the terminal or chronic
11 illness or condition was diagnosed after the policy was issued.

12 (d) The insurer shall not unreasonably delay effecting
13 change of ownership or beneficiary with any life settlement
14 contract lawfully entered into in this State or with a resident
15 of this State.

16 (e) If a settlement broker or life insurance producer
17 performs any of these activities required of the provider, the
18 provider is deemed to have fulfilled the requirements of this
19 Section.

20 (f) If a broker performs those verification of coverage
21 activities required of the provider, the provider is deemed to
22 have fulfilled the requirements of subsection (a) of Section
23 40.

24 (g) Within 20 days after an owner executes the life
25 settlement contract, the provider shall give written notice to
26 the insurer that issued that insurance policy that the policy

1 has become subject to a life settlement contract. The notice
2 shall be accompanied by the documents required by paragraph (2)
3 of Section 45 of this Act.

4 (h) All medical information solicited or obtained by any
5 licensee shall be subject to the applicable provision of State
6 law relating to confidentiality of medical information, if not
7 otherwise provided in this Act.

8 (i) All life settlement contracts entered into in this
9 State shall provide that the owner may rescind the contract on
10 or before 15 days after the date it is executed by all parties
11 to the contract. Rescission, if exercised by the owner, is
12 effective only if both notice of the rescission is given, and
13 the owner repays all proceeds and any premiums, loans, and loan
14 interest paid on account of the provider within the rescission
15 period. If the insured dies during the rescission period, the
16 Contract shall be deemed to have been rescinded subject to
17 repayment by the owner or the owner's estate of all proceeds
18 and any premiums, loans, and loan interest to the provider.

19 (j) Within 3 business days after receipt from the owner of
20 documents to effect the transfer of the insurance policy, the
21 provider shall pay the proceeds of the settlement to an escrow
22 or trust account managed by a trustee or escrow agent in a
23 state or federally chartered financial institution pending
24 acknowledgement of the transfer by the issuer of the policy.
25 The trustee or escrow agent shall be required to transfer the
26 proceeds due to the owner within 3 business days of

1 acknowledgement of the transfer from the insurer.

2 (k) Failure to tender the life settlement contract proceeds
3 to the owner by the date disclosed to the owner renders the
4 contract voidable by the owner for lack of consideration until
5 the time the proceeds are tendered to and accepted by the
6 owner. A failure to give written notice of the right of
7 rescission hereunder shall toll the right of rescission until
8 30 days after the written notice of the right of rescission has
9 been given.

10 (l) Any fee paid by a provider, party, individual, or an
11 owner to a broker in exchange for services provided to the
12 owner pertaining to a life settlement contract shall be
13 computed as a percentage of the offer obtained, not the face
14 value of the policy. Nothing in this Section shall be construed
15 as prohibiting a broker from reducing such broker's fee below
16 this percentage if the broker so chooses.

17 (m) The broker shall disclose to the owner anything of
18 value paid or given to a broker, which relate to a life
19 settlement contract.

20 (n) No person at any time prior to, or at the time of, the
21 application for, or issuance of, a policy, or during a two-year
22 period commencing with the date of issuance of the policy,
23 shall enter into a Life Settlement regardless of the date the
24 compensation is to be provided and regardless of the date the
25 assignment, transfer, sale, devise, bequest or surrender of the
26 policy is to occur. This prohibition shall not apply if the

1 owner certifies to the provider that:

2 (1) the policy was issued upon the owner's exercise of
3 conversion rights arising out of a group or individual
4 policy, provided the total of the time covered under the
5 conversion policy plus the time covered under the prior
6 policy is at least 24 months. The time covered under a
7 group policy must be calculated without regard to a change
8 in insurance carriers, provided the coverage has been
9 continuous and under the same group sponsorship;

10 (2) the owner submits independent evidence to the
11 provider that one or more of the following conditions have
12 been met within the 2 year period:

13 (A) the owner or insured is terminally or
14 chronically ill;

15 (B) the owner or insured disposes of his ownership
16 interests in a closely held corporation, pursuant to
17 the terms of a buyout or other similar agreement in
18 effect at the time the insurance policy was initially
19 issued;

20 (C) the owner's spouse dies;

21 (D) the owner divorces his or her spouse;

22 (E) the owner retires from full-time employment;

23 (F) the owner becomes physically or mentally
24 disabled and a physician determines that the
25 disability prevents the owner from maintaining
26 full-time employment; or

1 (G) a final order, judgment or decree is entered by
2 a court of competent jurisdiction, on the application
3 of a creditor of the owner, adjudicating the Owner
4 bankrupt or insolvent, or approving a petition seeking
5 reorganization of the Owner or appointing a receiver,
6 trustee or liquidator to all or a substantial part of
7 the Owner's assets;

8 (3) copies of the independent evidence required by
9 paragraph (2) of subsection (n) of this Section shall be
10 submitted to the insurer when the provider submits a
11 request to the insurer for verification of coverage. The
12 copies shall be accompanied by a letter of attestation from
13 the provider that the copies are true and correct copies of
14 the documents received by the provider. Nothing in this
15 Section shall prohibit an insurer from exercising its right
16 to contest the validity of any policy; and

17 (4) if the provider submits to the insurer a copy of
18 independent evidence provided for paragraph (A) of
19 subsection (2) of this Section when the provider submits a
20 request to the insurer to effect the transfer of the policy
21 to the provider, the copy is deemed to establish that the
22 settlement contract satisfies the requirements of this
23 Section.

24 Section 55. Authority to promulgate rules; conflict of
25 laws.

1 (a) The Director may promulgate rules implementing this Act
2 and regulating the activities and relationships of providers,
3 brokers, insurers, and their agents, subject to statutory
4 limitations on administrative rule making.

5 (b) If there is more than one owner on a single policy and
6 the owners are residents of different states, the life
7 settlement contract shall be governed by the law of the state
8 in which the owner having the largest percentage ownership
9 resides or, if the owners hold equal ownership, the laws of
10 residence of one owner agreed upon in writing by all of the
11 owners. The law of the state of the insured shall govern in the
12 event that equal owners fail to agree in writing upon a state
13 of residence for jurisdictional purposes. A provider from this
14 State who enters into a life settlement contract with an owner
15 who is a resident of another state that has enacted statutes or
16 adopted regulations governing life settlement contracts, shall
17 be governed in the effectuation of that life settlement
18 contract by the statutes and regulations of the owner's state
19 of residence. If the state in which the owner is a resident has
20 not enacted statutes or regulations governing life settlement
21 contracts, the provider shall give the owner notice that
22 neither state regulates the transaction upon which he or she is
23 entering. For transactions in those states, however, the
24 provider is to maintain all records required if the
25 transactions were executed in the state of residence. The forms
26 used in those states need not be approved by the Division.

1 (c) If there is a conflict in the laws that apply to an
2 owner and a purchaser in any individual transaction, the laws
3 of the state that apply to the owner shall take precedence and
4 the provider shall comply with those laws.

5 Section 60. Prohibited practices.

6 (a) It is unlawful for any person to:

7 (1) enter into a life settlement contract if such
8 person knows or reasonably should have known that the life
9 insurance policy was obtained by means of a false,
10 deceptive, or misleading application for such policy;

11 (2) engage in any transaction, practice, or course of
12 business if such person knows or reasonably should have
13 known that the intent was to avoid the notice requirements
14 of this Section;

15 (3) engage in any fraudulent act or practice in
16 connection with any transaction relating to any settlement
17 involving an Owner who is a resident of this State;

18 (4) issue, solicit, market, or otherwise promote the
19 purchase of an insurance policy for the purpose of or with
20 an emphasis on settling the policy;

21 (5) enter into a premium finance agreement with any
22 person or agency, or any person affiliated with such person
23 or agency, pursuant to which such person shall receive any
24 proceeds, fees, or other consideration, directly or
25 indirectly, from the policy or owner of the policy or any

1 other person with respect to the premium finance agreement
2 or any settlement contract or other transaction related to
3 such policy that are in addition to the amounts required to
4 pay the principal, interest, and service charges related to
5 policy premiums pursuant to the premium finance agreement
6 or subsequent sale of such agreement; provided, further,
7 that any payments, charges, fees, or other amounts in
8 addition to the amounts required to pay the principal,
9 interest, and service charges related to policy premiums
10 paid under the premium finance agreement shall be remitted
11 to the original owner of the policy or to his or her estate
12 if he or she is not living at the time of the determination
13 of the overpayment;

14 (6) with respect to any settlement contract or
15 insurance policy and a broker, knowingly solicit an offer
16 from, effectuate a life settlement contract with or make a
17 sale to any provider, financing entity, or related provider
18 trust that is controlling, controlled by, or under common
19 control with such broker;

20 (7) with respect to any life settlement contract or
21 insurance policy and a provider, knowingly enter into a
22 life settlement contract with a owner, if, in connection
23 with such life settlement contract, anything of value will
24 be paid to a broker that is controlling, controlled by, or
25 under common control with such provider or the financing
26 entity or related provider trust that is involved in such

1 settlement contract;

2 (8) with respect to a provider, enter into a life
3 settlement contract unless the life settlement
4 promotional, advertising and marketing materials, as may
5 be prescribed by regulation, have been filed with the
6 Director. In no event shall any marketing materials
7 expressly reference that the insurance is "free" for any
8 period of time. The inclusion of any reference in the
9 marketing materials that would cause an Owner to reasonably
10 believe that the insurance is free for any period of time
11 shall be considered a violation of this Act; or

12 (9) with respect to any life insurance producer,
13 insurance company, broker, or provider make any statement
14 or representation to the applicant or policyholder in
15 connection with the sale or financing of a life insurance
16 policy to the effect that the insurance is free or without
17 cost to the policyholder for any period of time unless
18 provided in the policy.

19 (b) A violation of this Section shall be deemed a
20 fraudulent life settlement act.

21 Section 65. Fraud prevention and control.

22 (a) A person shall not commit a fraudulent life settlement
23 act. A person shall not knowingly and intentionally interfere
24 with the enforcement of the provisions of this Act or
25 investigations of suspected or actual violations of this Act. A

1 person in the business of life settlements shall not knowingly
2 or intentionally permit any person convicted of a felony
3 involving dishonesty or breach of trust to participate in the
4 business of life settlements.

5 (b) Life settlement contracts and applications for life
6 settlement contracts, regardless of the form of transmission,
7 shall contain the following statement or a substantially
8 similar statement:

9 "Any person who knowingly presents false information in an
10 application for insurance or life settlement contract is
11 guilty of a crime and may be subject to fines and
12 confinement in prison."

13 The lack of a statement as required in this subsection does not
14 constitute a defense in any prosecution for a fraudulent life
15 settlement act.

16 (c) Any person engaged in the business of life settlements
17 having knowledge or a reasonable belief that a fraudulent life
18 settlement act is being, will be, or has been committed shall
19 provide to the Director the information required by, and in a
20 manner prescribed by, the Director. Any other person having
21 knowledge or a reasonable belief that a fraudulent life
22 settlement act is being, will be or has been committed may
23 provide to the Director the information required by, and in a
24 manner prescribed by, the Director.

25 (d) No civil liability shall be imposed on and no cause of
26 action shall arise from a person's furnishing information

1 concerning suspected, anticipated, or completed fraudulent
2 life settlement acts or suspected or completed fraudulent
3 insurance acts, if the information is provided to or received
4 from:

5 (1) the Director or the Director's employees, agents,
6 or representatives;

7 (2) federal, State, or local law enforcement or
8 regulatory officials or their employees, agents, or
9 representatives;

10 (3) a person involved in the prevention and detection
11 of fraudulent life settlement acts or that person's agents,
12 employees, or representatives;

13 (4) any regulatory body or their employees, agents or
14 representatives, overseeing life insurance, life
15 settlements, securities, or investment fraud;

16 (5) the life insurer that issued the life insurance
17 policy covering the life of the insured; or

18 (6) the licensee and any agents, employees, or
19 representatives.

20 This subsection (d) shall not apply to statements made with
21 actual malice. In an action brought against a person for filing
22 a report or furnishing other information concerning a
23 fraudulent life settlement act or a fraudulent insurance act,
24 the party bringing the action shall plead specifically any
25 allegation that this subsection (d) does not apply because the
26 person filing the report or furnishing the information did so

1 with actual malice. A person identified in subsection (d) shall
2 be entitled to an award of attorney's fees and costs if he or
3 she is the prevailing party in a civil cause of action for
4 libel, slander or any other relevant tort arising out of
5 activities in carrying out the provisions of this Act and the
6 party bringing the action was not substantially justified in
7 doing so. For purposes of this Section, a proceeding is
8 "substantially justified" if it had a reasonable basis in law
9 or fact at the time that it was initiated. This subsection (d)
10 does not abrogate or modify common law or statutory privileges
11 or immunities enjoyed by a person.

12 (e) The documents and evidence provided pursuant to
13 subsection (d) of this Section or obtained by the Director in
14 an investigation of suspected or actual fraudulent life
15 settlement acts shall be privileged and confidential and shall
16 not be a public record and shall not be subject to discovery or
17 subpoena in a civil or criminal action.

18 (1) This subsection (e) does not prohibit release by
19 the Director of documents and evidence obtained in an
20 investigation of suspected or actual fraudulent life
21 settlement acts:

22 (A) in administrative or judicial proceedings to
23 enforce laws administered by the Director;

24 (B) to federal, State, or local law enforcement or
25 regulatory agencies, to an organization established
26 for the purpose of detecting and preventing fraudulent

1 life settlement acts or to the National Association of
2 Insurance Commissioners; or

3 (C)at the discretion of the Director, to a person
4 in the business of life settlements that is aggrieved
5 by a fraudulent life settlement act.

6 Release of documents and evidence under this subsection (e)
7 does not abrogate or modify the privilege granted in paragraph
8 (1) of this subsection (e).

9 (f) This Act shall not:

10 (1) preempt the authority or relieve the duty of other
11 law enforcement or regulatory agencies to investigate,
12 examine and prosecute suspected violations of law;

13 (2) preempt, supersede, or limit any provision of any
14 State securities law or any rule, order, or notice issued
15 thereunder;

16 (3) prevent or prohibit a person from disclosing
17 voluntarily information concerning life settlement fraud
18 to a law enforcement or regulatory agency other than the
19 Division; or

20 (4) limit the powers granted elsewhere by the laws of
21 this State to the Director or an insurance fraud unit to
22 investigate and examine possible violations of law and to
23 take appropriate action against wrongdoers.

24 (g) Providers and brokers shall have in place antifraud
25 initiatives reasonably calculated to detect, prosecute, and
26 prevent fraudulent life settlement acts. At the discretion of

1 the Director, the Director may order, or a licensee may request
2 and the Director may grant, such modifications of the following
3 required initiatives as necessary to ensure an effective
4 antifraud program. The modifications may be more or less
5 restrictive than the required initiatives so long as the
6 modifications may reasonably be expected to accomplish the
7 purpose of this Section. Antifraud initiatives shall include:

8 (1) fraud investigators, who may be provider or broker
9 employees or independent contractors; and

10 (2) an antifraud plan, which shall be submitted to the
11 Director. The antifraud plan shall include, but not be
12 limited to:

13 (A) a description of the procedures for detecting
14 and investigating possible fraudulent life settlement
15 acts and procedures for resolving material
16 inconsistencies between medical records and insurance
17 applications;

18 (B) a description of the procedures for reporting
19 possible fraudulent life settlement acts to the
20 Director;

21 (C) a description of the plan for antifraud
22 education and training of underwriters and other
23 personnel; and

24 (D) a description or chart outlining the
25 organizational arrangement of the antifraud personnel
26 who are responsible for the investigation and

1 reporting of possible fraudulent life settlement acts
2 and investigating unresolved material inconsistencies
3 between medical records and insurance applications.

4 Antifraud plans submitted to the Director shall be
5 privileged and confidential and shall not be a public record
6 and shall not be subject to discovery or subpoena in a civil or
7 criminal action.

8 Section 70. Injunctions; civil remedies; cease and desist.

9 (a) In addition to the penalties and other enforcement
10 provisions of this Act, if any person violates this Act or any
11 rule implementing this Act, the Director may seek an injunction
12 in a court of competent jurisdiction in the county where the
13 person resides or has a principal place of business and may
14 apply for temporary and permanent orders that the Director
15 determines necessary to restrain the person from further
16 committing the violation.

17 (b) Any person damaged by the acts of another person in
18 violation of this Act or any rule or regulation implementing
19 this Act, may bring a civil action for damages against the
20 person committing the violation in a court of competent
21 jurisdiction.

22 (c) The Director may issue a cease and desist order upon a
23 person who violates any provision of this part, any rule, or
24 order adopted by the Director, or any written agreement entered
25 into with the Director, in accordance with the Illinois

1 Administrative Procedure Act.

2 (d) When the Director finds that such an action presents an
3 immediate danger to the public and requires an immediate final
4 order, he may issue an emergency cease and desist order
5 reciting with particularity the facts underlying such
6 findings. The emergency cease and desist order is effective
7 immediately upon service of a copy of the order on the
8 respondent and remains effective for 90 days. If the Division
9 begins non-emergency cease and desist proceedings under
10 subsection (a) of this Section, the emergency cease and desist
11 order remains effective, absent an order by an appellate court
12 of competent jurisdiction pursuant to the Illinois
13 Administrative Procedure Act. In the event of a willful
14 violation of this Act, the trial court may award statutory
15 damages in addition to actual damages in an additional amount
16 up to 3 times the actual damage award. The provisions of this
17 Act may not be waived by agreement. No choice of law provision
18 may be utilized to prevent the application of this Act to any
19 settlement in which a party to the settlement is a resident of
20 this State.

21 Section 75. Penalties.

22 (a) It is a violation of this Act for any person, provider,
23 broker, or any other party related to the business of life
24 settlements, to commit a fraudulent life settlement act.

25 (b) For criminal liability purposes, a person that commits

1 a fraudulent life settlement act is guilty of committing
2 insurance fraud and shall be subject to additional penalties
3 under the Illinois Insurance Code.

4 (c) The Director shall be empowered to levy a civil penalty
5 and the amount of the claim for each violation upon any person,
6 including those persons and their employees licensed pursuant
7 to this Act, who is found to have committed a fraudulent life
8 settlement act or violated any other provision of this Act.

9 (d) The license of a person licensed under this Act that
10 commits a fraudulent life settlement act shall be revoked for a
11 period of at least 5 years.

12 Section 80. Unfair or deceptive practices. A violation this
13 Act shall be considered an unfair or deceptive practice
14 pursuant to the Consumer Fraud and Deceptive Business Practices
15 Act and subject to the penalties provided by State law.

16 Section 85. Effective date.

17 (a) A provider lawfully transacting business in this State
18 prior to the effective date of this Act may continue to do so
19 pending approval or disapproval of that person's application
20 for a license as long as the application is filed with the
21 Director not later than 30 days after publication by the
22 Director of an application form and instructions for licensure
23 of providers. If the publication of the application form and
24 instructions is prior to the effective date of this Act, then

1 the filing of the application shall not be later than 30 days
2 after the effective date of this Act. During the time that such
3 an application is pending with the Director, the applicant may
4 use any form of life settlement contract that has been filed
5 with the Director pending approval thereof, provided that such
6 form is otherwise in compliance with the provisions of this
7 Act. Any person transacting business in this State under this
8 provision shall be obligated to comply with all other
9 requirements of this Act.

10 (b) A person who has lawfully negotiated life settlement
11 contracts between any owner residing in this State and one or
12 more providers for at least one year immediately prior to the
13 effective date of this Act may continue to do so pending
14 approval or disapproval of that person's application for a
15 license as long as the application is filed with the Director
16 not later than 30 days after publication by the Director of an
17 application form and instructions for licensure of brokers. If
18 the publication of the application form and instructions is
19 prior to the effective date of this Act, then the filing of the
20 application shall not be later than 30 days after the effective
21 date of this Act. Any person transacting business in this State
22 under this provision shall be obligated to comply with all
23 other requirements of this Act.

24 Section 900. The Freedom of Information Act is amended by
25 changing Section 7 as follows:

1 (5 ILCS 140/7) (from Ch. 116, par. 207)

2 Sec. 7. Exemptions.

3 (1) The following shall be exempt from inspection and
4 copying:

5 (a) Information specifically prohibited from
6 disclosure by federal or State law or rules and regulations
7 adopted under federal or State law.

8 (b) Information that, if disclosed, would constitute a
9 clearly unwarranted invasion of personal privacy, unless
10 the disclosure is consented to in writing by the individual
11 subjects of the information. The disclosure of information
12 that bears on the public duties of public employees and
13 officials shall not be considered an invasion of personal
14 privacy. Information exempted under this subsection (b)
15 shall include but is not limited to:

16 (i) files and personal information maintained with
17 respect to clients, patients, residents, students or
18 other individuals receiving social, medical,
19 educational, vocational, financial, supervisory or
20 custodial care or services directly or indirectly from
21 federal agencies or public bodies;

22 (ii) personnel files and personal information
23 maintained with respect to employees, appointees or
24 elected officials of any public body or applicants for
25 those positions;

1 (iii) files and personal information maintained
2 with respect to any applicant, registrant or licensee
3 by any public body cooperating with or engaged in
4 professional or occupational registration, licensure
5 or discipline;

6 (iv) information required of any taxpayer in
7 connection with the assessment or collection of any tax
8 unless disclosure is otherwise required by State
9 statute;

10 (v) information revealing the identity of persons
11 who file complaints with or provide information to
12 administrative, investigative, law enforcement or
13 penal agencies; provided, however, that identification
14 of witnesses to traffic accidents, traffic accident
15 reports, and rescue reports may be provided by agencies
16 of local government, except in a case for which a
17 criminal investigation is ongoing, without
18 constituting a clearly unwarranted per se invasion of
19 personal privacy under this subsection; and

20 (vi) the names, addresses, or other personal
21 information of participants and registrants in park
22 district, forest preserve district, and conservation
23 district programs.

24 (c) Records compiled by any public body for
25 administrative enforcement proceedings and any law
26 enforcement or correctional agency for law enforcement

1 purposes or for internal matters of a public body, but only
2 to the extent that disclosure would:

3 (i) interfere with pending or actually and
4 reasonably contemplated law enforcement proceedings
5 conducted by any law enforcement or correctional
6 agency;

7 (ii) interfere with pending administrative
8 enforcement proceedings conducted by any public body;

9 (iii) deprive a person of a fair trial or an
10 impartial hearing;

11 (iv) unavoidably disclose the identity of a
12 confidential source or confidential information
13 furnished only by the confidential source;

14 (v) disclose unique or specialized investigative
15 techniques other than those generally used and known or
16 disclose internal documents of correctional agencies
17 related to detection, observation or investigation of
18 incidents of crime or misconduct;

19 (vi) constitute an invasion of personal privacy
20 under subsection (b) of this Section;

21 (vii) endanger the life or physical safety of law
22 enforcement personnel or any other person; or

23 (viii) obstruct an ongoing criminal investigation.

24 (d) Criminal history record information maintained by
25 State or local criminal justice agencies, except the
26 following which shall be open for public inspection and

1 copying:

2 (i) chronologically maintained arrest information,
3 such as traditional arrest logs or blotters;

4 (ii) the name of a person in the custody of a law
5 enforcement agency and the charges for which that
6 person is being held;

7 (iii) court records that are public;

8 (iv) records that are otherwise available under
9 State or local law; or

10 (v) records in which the requesting party is the
11 individual identified, except as provided under part
12 (vii) of paragraph (c) of subsection (1) of this
13 Section.

14 "Criminal history record information" means data
15 identifiable to an individual and consisting of
16 descriptions or notations of arrests, detentions,
17 indictments, informations, pre-trial proceedings, trials,
18 or other formal events in the criminal justice system or
19 descriptions or notations of criminal charges (including
20 criminal violations of local municipal ordinances) and the
21 nature of any disposition arising therefrom, including
22 sentencing, court or correctional supervision,
23 rehabilitation and release. The term does not apply to
24 statistical records and reports in which individuals are
25 not identified and from which their identities are not
26 ascertainable, or to information that is for criminal

1 investigative or intelligence purposes.

2 (e) Records that relate to or affect the security of
3 correctional institutions and detention facilities.

4 (f) Preliminary drafts, notes, recommendations,
5 memoranda and other records in which opinions are
6 expressed, or policies or actions are formulated, except
7 that a specific record or relevant portion of a record
8 shall not be exempt when the record is publicly cited and
9 identified by the head of the public body. The exemption
10 provided in this paragraph (f) extends to all those records
11 of officers and agencies of the General Assembly that
12 pertain to the preparation of legislative documents.

13 (g) Trade secrets and commercial or financial
14 information obtained from a person or business where the
15 trade secrets or information are proprietary, privileged
16 or confidential, or where disclosure of the trade secrets
17 or information may cause competitive harm, including:

18 (i) All information determined to be confidential
19 under Section 4002 of the Technology Advancement and
20 Development Act.

21 (ii) All trade secrets and commercial or financial
22 information obtained by a public body, including a
23 public pension fund, from a private equity fund or a
24 privately held company within the investment portfolio
25 of a private equity fund as a result of either
26 investing or evaluating a potential investment of

1 public funds in a private equity fund. The exemption
2 contained in this item does not apply to the aggregate
3 financial performance information of a private equity
4 fund, nor to the identity of the fund's managers or
5 general partners. The exemption contained in this item
6 does not apply to the identity of a privately held
7 company within the investment portfolio of a private
8 equity fund, unless the disclosure of the identity of a
9 privately held company may cause competitive harm.

10 Nothing contained in this paragraph (g) shall be construed
11 to prevent a person or business from consenting to disclosure.

12 (h) Proposals and bids for any contract, grant, or
13 agreement, including information which if it were
14 disclosed would frustrate procurement or give an advantage
15 to any person proposing to enter into a contractor
16 agreement with the body, until an award or final selection
17 is made. Information prepared by or for the body in
18 preparation of a bid solicitation shall be exempt until an
19 award or final selection is made.

20 (i) Valuable formulae, computer geographic systems,
21 designs, drawings and research data obtained or produced by
22 any public body when disclosure could reasonably be
23 expected to produce private gain or public loss. The
24 exemption for "computer geographic systems" provided in
25 this paragraph (i) does not extend to requests made by news
26 media as defined in Section 2 of this Act when the

1 requested information is not otherwise exempt and the only
2 purpose of the request is to access and disseminate
3 information regarding the health, safety, welfare, or
4 legal rights of the general public.

5 (j) Test questions, scoring keys and other examination
6 data used to administer an academic examination or
7 determined the qualifications of an applicant for a license
8 or employment.

9 (k) Architects' plans, engineers' technical
10 submissions, and other construction related technical
11 documents for projects not constructed or developed in
12 whole or in part with public funds and the same for
13 projects constructed or developed with public funds, but
14 only to the extent that disclosure would compromise
15 security, including but not limited to water treatment
16 facilities, airport facilities, sport stadiums, convention
17 centers, and all government owned, operated, or occupied
18 buildings.

19 (l) Library circulation and order records identifying
20 library users with specific materials.

21 (m) Minutes of meetings of public bodies closed to the
22 public as provided in the Open Meetings Act until the
23 public body makes the minutes available to the public under
24 Section 2.06 of the Open Meetings Act.

25 (n) Communications between a public body and an
26 attorney or auditor representing the public body that would

1 not be subject to discovery in litigation, and materials
2 prepared or compiled by or for a public body in
3 anticipation of a criminal, civil or administrative
4 proceeding upon the request of an attorney advising the
5 public body, and materials prepared or compiled with
6 respect to internal audits of public bodies.

7 (o) Information received by a primary or secondary
8 school, college or university under its procedures for the
9 evaluation of faculty members by their academic peers.

10 (p) Administrative or technical information associated
11 with automated data processing operations, including but
12 not limited to software, operating protocols, computer
13 program abstracts, file layouts, source listings, object
14 modules, load modules, user guides, documentation
15 pertaining to all logical and physical design of
16 computerized systems, employee manuals, and any other
17 information that, if disclosed, would jeopardize the
18 security of the system or its data or the security of
19 materials exempt under this Section.

20 (q) Documents or materials relating to collective
21 negotiating matters between public bodies and their
22 employees or representatives, except that any final
23 contract or agreement shall be subject to inspection and
24 copying.

25 (r) Drafts, notes, recommendations and memoranda
26 pertaining to the financing and marketing transactions of

1 the public body. The records of ownership, registration,
2 transfer, and exchange of municipal debt obligations, and
3 of persons to whom payment with respect to these
4 obligations is made.

5 (s) The records, documents and information relating to
6 real estate purchase negotiations until those negotiations
7 have been completed or otherwise terminated. With regard to
8 a parcel involved in a pending or actually and reasonably
9 contemplated eminent domain proceeding under the Eminent
10 Domain Act, records, documents and information relating to
11 that parcel shall be exempt except as may be allowed under
12 discovery rules adopted by the Illinois Supreme Court. The
13 records, documents and information relating to a real
14 estate sale shall be exempt until a sale is consummated.

15 (t) Any and all proprietary information and records
16 related to the operation of an intergovernmental risk
17 management association or self-insurance pool or jointly
18 self-administered health and accident cooperative or pool.

19 (u) Information concerning a university's adjudication
20 of student or employee grievance or disciplinary cases, to
21 the extent that disclosure would reveal the identity of the
22 student or employee and information concerning any public
23 body's adjudication of student or employee grievances or
24 disciplinary cases, except for the final outcome of the
25 cases.

26 (v) Course materials or research materials used by

1 faculty members.

2 (w) Information related solely to the internal
3 personnel rules and practices of a public body.

4 (x) Information contained in or related to
5 examination, operating, or condition reports prepared by,
6 on behalf of, or for the use of a public body responsible
7 for the regulation or supervision of financial
8 institutions or insurance companies, unless disclosure is
9 otherwise required by State law.

10 (y) Information the disclosure of which is restricted
11 under Section 5-108 of the Public Utilities Act.

12 (z) Manuals or instruction to staff that relate to
13 establishment or collection of liability for any State tax
14 or that relate to investigations by a public body to
15 determine violation of any criminal law.

16 (aa) Applications, related documents, and medical
17 records received by the Experimental Organ Transplantation
18 Procedures Board and any and all documents or other records
19 prepared by the Experimental Organ Transplantation
20 Procedures Board or its staff relating to applications it
21 has received.

22 (bb) Insurance or self insurance (including any
23 intergovernmental risk management association or self
24 insurance pool) claims, loss or risk management
25 information, records, data, advice or communications.

26 (cc) Information and records held by the Department of

1 Public Health and its authorized representatives relating
2 to known or suspected cases of sexually transmissible
3 disease or any information the disclosure of which is
4 restricted under the Illinois Sexually Transmissible
5 Disease Control Act.

6 (dd) Information the disclosure of which is exempted
7 under Section 30 of the Radon Industry Licensing Act.

8 (ee) Firm performance evaluations under Section 55 of
9 the Architectural, Engineering, and Land Surveying
10 Qualifications Based Selection Act.

11 (ff) Security portions of system safety program plans,
12 investigation reports, surveys, schedules, lists, data, or
13 information compiled, collected, or prepared by or for the
14 Regional Transportation Authority under Section 2.11 of
15 the Regional Transportation Authority Act or the St. Clair
16 County Transit District under the Bi-State Transit Safety
17 Act.

18 (gg) Information the disclosure of which is restricted
19 and exempted under Section 50 of the Illinois Prepaid
20 Tuition Act.

21 (hh) Information the disclosure of which is exempted
22 under the State Officials and Employees Ethics Act.

23 (ii) Beginning July 1, 1999, information that would
24 disclose or might lead to the disclosure of secret or
25 confidential information, codes, algorithms, programs, or
26 private keys intended to be used to create electronic or

1 digital signatures under the Electronic Commerce Security
2 Act.

3 (jj) Information contained in a local emergency energy
4 plan submitted to a municipality in accordance with a local
5 emergency energy plan ordinance that is adopted under
6 Section 11-21.5-5 of the Illinois Municipal Code.

7 (kk) Information and data concerning the distribution
8 of surcharge moneys collected and remitted by wireless
9 carriers under the Wireless Emergency Telephone Safety
10 Act.

11 (ll) Vulnerability assessments, security measures, and
12 response policies or plans that are designed to identify,
13 prevent, or respond to potential attacks upon a community's
14 population or systems, facilities, or installations, the
15 destruction or contamination of which would constitute a
16 clear and present danger to the health or safety of the
17 community, but only to the extent that disclosure could
18 reasonably be expected to jeopardize the effectiveness of
19 the measures or the safety of the personnel who implement
20 them or the public. Information exempt under this item may
21 include such things as details pertaining to the
22 mobilization or deployment of personnel or equipment, to
23 the operation of communication systems or protocols, or to
24 tactical operations.

25 (mm) Maps and other records regarding the location or
26 security of generation, transmission, distribution,

1 storage, gathering, treatment, or switching facilities
2 owned by a utility or by the Illinois Power Agency.

3 (nn) Law enforcement officer identification
4 information or driver identification information compiled
5 by a law enforcement agency or the Department of
6 Transportation under Section 11-212 of the Illinois
7 Vehicle Code.

8 (oo) Records and information provided to a residential
9 health care facility resident sexual assault and death
10 review team or the Executive Council under the Abuse
11 Prevention Review Team Act.

12 (pp) Information provided to the predatory lending
13 database created pursuant to Article 3 of the Residential
14 Real Property Disclosure Act, except to the extent
15 authorized under that Article.

16 (qq) Defense budgets and petitions for certification
17 of compensation and expenses for court appointed trial
18 counsel as provided under Sections 10 and 15 of the Capital
19 Crimes Litigation Act. This subsection (qq) shall apply
20 until the conclusion of the trial of the case, even if the
21 prosecution chooses not to pursue the death penalty prior
22 to trial or sentencing.

23 (rr) Information contained in or related to proposals,
24 bids, or negotiations related to electric power
25 procurement under Section 1-75 of the Illinois Power Agency
26 Act and Section 16-111.5 of the Public Utilities Act that

1 is determined to be confidential and proprietary by the
2 Illinois Power Agency or by the Illinois Commerce
3 Commission.

4 (ss) Information the disclosure of which is exempted
5 under the Life Settlements Act.

6 (2) This Section does not authorize withholding of
7 information or limit the availability of records to the public,
8 except as stated in this Section or otherwise provided in this
9 Act.

10 (Source: P.A. 94-280, eff. 1-1-06; 94-508, eff. 1-1-06; 94-664,
11 eff. 1-1-06; 94-931, eff. 6-26-06; 94-953, eff. 6-27-06;
12 94-1055, eff. 1-1-07; 95-331, eff. 8-21-07; 95-481, eff.
13 8-28-07.)

14 Section 905. The Consumer Fraud and Deceptive Business
15 Practices Act is amended by changing Section 2Z as follows:

16 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

17 (Text of Section before amendment by P.A. 95-562)

18 Sec. 2Z. Violations of other Acts. Any person who knowingly
19 violates the Automotive Repair Act, the Automotive Collision
20 Repair Act, the Home Repair and Remodeling Act, the Dance
21 Studio Act, the Physical Fitness Services Act, the Hearing
22 Instrument Consumer Protection Act, the Illinois Union Label
23 Act, the Job Referral and Job Listing Services Consumer
24 Protection Act, the Travel Promotion Consumer Protection Act,

1 the Credit Services Organizations Act, the Automatic Telephone
2 Dialers Act, the Pay-Per-Call Services Consumer Protection
3 Act, the Telephone Solicitations Act, the Illinois Funeral or
4 Burial Funds Act, the Cemetery Care Act, the Safe and Hygienic
5 Bed Act, the Pre-Need Cemetery Sales Act, the High Risk Home
6 Loan Act, the Payday Loan Reform Act, the Life Settlements Act,
7 the Mortgage Rescue Fraud Act, subsection (a) or (b) of Section
8 3-10 of the Cigarette Tax Act, the Payday Loan Reform Act,
9 subsection (a) or (b) of Section 3-10 of the Cigarette Use Tax
10 Act, the Electronic Mail Act, the Internet Caller
11 Identification Act, paragraph (6) of subsection (k) of Section
12 6-305 of the Illinois Vehicle Code, Article 3 of the
13 Residential Real Property Disclosure Act, the Automatic
14 Contract Renewal Act, or the Personal Information Protection
15 Act commits an unlawful practice within the meaning of this
16 Act.

17 (Source: P.A. 94-13, eff. 12-6-05; 94-36, eff. 1-1-06; 94-280,
18 eff. 1-1-06; 94-292, eff. 1-1-06; 94-822, eff. 1-1-07; 95-413,
19 eff. 1-1-08.)

20 (Text of Section after amendment by P.A. 95-562)

21 Sec. 2Z. Violations of other Acts. Any person who knowingly
22 violates the Automotive Repair Act, the Automotive Collision
23 Repair Act, the Home Repair and Remodeling Act, the Dance
24 Studio Act, the Physical Fitness Services Act, the Hearing
25 Instrument Consumer Protection Act, the Illinois Union Label

1 Act, the Job Referral and Job Listing Services Consumer
2 Protection Act, the Travel Promotion Consumer Protection Act,
3 the Credit Services Organizations Act, the Automatic Telephone
4 Dialers Act, the Pay-Per-Call Services Consumer Protection
5 Act, the Telephone Solicitations Act, the Illinois Funeral or
6 Burial Funds Act, the Cemetery Care Act, the Safe and Hygienic
7 Bed Act, the Pre-Need Cemetery Sales Act, the High Risk Home
8 Loan Act, the Payday Loan Reform Act, the Life Settlements Act,
9 the Mortgage Rescue Fraud Act, subsection (a) or (b) of Section
10 3-10 of the Cigarette Tax Act, the Payday Loan Reform Act,
11 subsection (a) or (b) of Section 3-10 of the Cigarette Use Tax
12 Act, the Electronic Mail Act, the Internet Caller
13 Identification Act, paragraph (6) of subsection (k) of Section
14 6-305 of the Illinois Vehicle Code, Section 18d-115, 18d-120,
15 18d-125, 18d-135, or 18d-150 of the Illinois Vehicle Code,
16 Article 3 of the Residential Real Property Disclosure Act, the
17 Automatic Contract Renewal Act, or the Personal Information
18 Protection Act commits an unlawful practice within the meaning
19 of this Act.

20 (Source: P.A. 94-13, eff. 12-6-05; 94-36, eff. 1-1-06; 94-280,
21 eff. 1-1-06; 94-292, eff. 1-1-06; 94-822, eff. 1-1-07; 95-413,
22 eff. 1-1-08; 95-562, eff. 7-1-08; revised 10-17-07.)

23 (215 ILCS 158/Act rep.)

24 Section 910. The Viatical Settlements Act is repealed.

1 Section 995. No acceleration or delay. Where this Act makes
2 changes in a statute that is represented in this Act by text
3 that is not yet or no longer in effect (for example, a Section
4 represented by multiple versions), the use of that text does
5 not accelerate or delay the taking effect of (i) the changes
6 made by this Act or (ii) provisions derived from any other
7 Public Act.

8 Section 999. Effective date. This Act takes effect upon
9 becoming law.